

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

CLYDE E. MEASE, JR.,)
)
Plaintiff,) C.A. No.: 06-271 (SLR)
)
v.) Trial By Jury Demanded
)
WILMINGTON TRUST COMPANY)
)
Defendant.

MOTION TO STRIKE, PURSUANT TO LOCAL RULE 7.1.5

1. Plaintiff filed a Motion for Reargument asking that the Court reconsider its decision to dismiss his two state law claims, and Defendant filed a timely response to that Motion. On April 9, 2007, Plaintiff, without obtaining leave of Court and in violation of Local Rule 7.1.5, filed a document titled "Plaintiff's Reply Memorandum In Support of Its Motion For Reconsideration." Since that document was filed without permission and in violation of Local Rule 7.1.5, Defendant moves that it be stricken.

2. Plaintiff's Reply Memorandum claims that it was being submitted solely because the Defendant argued for the first time in its response to the Motion for Reargument that Plaintiff had failed to plead fraud with particularity. Plaintiff is both mistaken in his justification for his Reply Memorandum and inaccurate in describing the scope of his Reply Memorandum.

3. In its response to Plaintiff's original Motion for Reargument, Defendant was entitled to answer the contentions contained therein. There, Defendant pointed out that in his Motion for Reargument, Plaintiff had recharacterized his implied

covenant claim as something other than what he had alleged in his Amended Complaint. Since Plaintiff was, for the first time, alleging in his Motion for Reargument a claim under the “falsification of records” subcategory of the implied covenant cause of action, but had not stated that claim with particularity in his Amended Complaint, Defendant was entitled to, and did, point out that deficiency. That does not justify Plaintiff’s actions in ignoring Local Rule 7.1.5.

4. In addition, Plaintiff’s Reply Memorandum goes beyond its stated purpose and reargues his claim broadly, also in violation of Local Rule 7.1.5.

Therefore, Defendant respectfully requests that Plaintiff’s Reply Memorandum be stricken.

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